

1 and the Court's prior decision in this case, Dkt. #296, for relevant background information. The
 2 simple issue presented by this motion is whether the dispute between all the parties has become
 3 moot. Elko argues that the case is moot because the road that was washed out in 1995 has been
 4 repaired, Elko and the Forest Service have resolved the R.S. 2477 issue between themselves, and
 5 the repaired road would continue to exist regardless of this Court's decision on the settlement
 6 agreement. Even taking all of these arguments as true, they do not make this case moot.

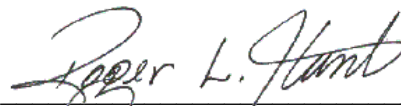
7 The case is not moot because the Court may still grant effective relief to TWS on
 8 the R.S. 2477 issue. TWS argues that if the Court approves the settlement agreement, the
 9 settlement agreement will essentially grant an R.S. 2477 right of way for the road in favor of Elko.
 10 TWS argues that the government did not go through the proper procedures to grant a right of way
 11 and, thus, the government should not be allowed to do so. Regardless of what Elko and the Forest
 12 Service have done as regards constructing and operating the disputed road up this point and what
 13 there agreement is as to future management (there resolution to the R.S. 2477 issue), the legal
 14 matter of who has the right to manage the road in the future remains unsettled. As it stands, Elko
 15 and the Forest Services informal agreement as to road management could change at any time. As
 16 such, there is still a live case and controversy, *DaimlerChrysler Corp. V. Cuno*, 547 U.S. 332, 341,
 17 352 (2006), and the matter is not moot.

18 CONCLUSION

19 Accordingly, and for good cause appearing,

20 IT IS HEREBY ORDERED that Elko County's Motion to Dismiss for Mootness
 21 (#351) is DENIED.

22 Dated: September 29, 2011.

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 24 
 25 **ROGER L. HUNT**
 26 **United States District Judge**